



POLICE DEPARTMENT

-----X
In the Matter of the Disciplinary Proceedings

- against -

Police Officer William Stanley

Tax Registry No. 929209

Quartermaster Section
-----X

:
:
: FINAL
:
: ORDER
:
: OF
:
: DISMISSAL

Police Officer William Stanley, Tax Registry No. 929209, Shield No. 08717, Social Security No. ending in [REDACTED] having been served with written notice, has been tried on written Charges and Specifications numbered 2018-19382, as set forth on form P.D. 468-121, dated August 9, 2018, and after a review of the entire record, Respondent is found Guilty.

Now therefore, pursuant to the powers vested in me by Section 14-115 of the Administrative Code of the City of New York, I hereby DISMISS Police Officer William Stanley from the Police Service of the City of New York.


JAMES P. O'NEILL
POLICE COMMISSIONER

EFFECTIVE: August 29, 2018

COURTESY • PROFESSIONALISM • RESPECT

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POLICE DEPARTMENT

August 22, 2018

-----X
In the Matter of the Charges and Specifications

Case No. 2018-19382

- against -

Police Officer William Stanley

Tax Registry No. 929209

Quartermaster Section
-----X

At: Police Headquarters
One Police Plaza
New York, NY 10038

Before: Honorable Nancy R. Ryan
Assistant Deputy Commissioner Trials

APPEARANCES:

For the Department: Javier Seymore, Esq.
Department Advocate's Office
One Police Plaza, 4th Floor
New York, NY 10038

For the Respondent: John Tynan, Esq.
Worth, Longworth, & London, LLP
111 John Street, Suite 640
New York, NY 10038

To:

HONORABLE JAMES P. O'NEILL
POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NEW YORK 10038

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CHARGES AND SPECIFICATIONS

1. Said Police Officer William Stanley, while on-duty and assigned to the Quartermaster Section on or about August 9, 2018, inside Internal Affairs Bureau office, did wrongfully engage in conduct prejudicial to the good order, efficiency or discipline of the Department in that said Police Officer William Stanley failed to comply with an order to answer questions during an Official Department Interview being held pursuant to Patrol Guide Procedure 206-13.

P.G. 206-13 Page 2, Paragraph 12 – INTERROGATIONS OF MEMBERS OF THE SERVICE

P.G. 203-03 Page 1, Paragraph 2 – COMPLIANCE WITH ORDERS

P.G. 203-10 Page 1, Paragraph 5 – GENERAL REGULATIONS

REPORT AND RECOMMENDATION

On August 16, 2018, Respondent, through his counsel, entered a plea of Not Guilty to the subject charge. The Department called Sergeant Thomas Hammerschmitt as a witness.

Respondent did not appear for trial and was tried *in absentia*. Respondent's attorney did appear and fully participated in the trial. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

DECISION

After reviewing the evidence presented at the hearing, and assessing the credibility of the witness, the Court finds Respondent Guilty of the charged misconduct.

FINDINGS AND ANALYSIS

a. Trial in Absentia

Respondent submitted an application on August 3, 2018, for service retirement. His effective date of retirement is scheduled to be September 1, 2018.

On August 14, 2018, Respondent's attorney, John Tynan Esq. of Worth, Longworth and London, LLP, appeared to conference this matter. He waived Respondent's appearance. A trial date of August 16, 2018, was set.

On August 16, 2018, the court was advised by Mr. Tynan that Respondent would not be appearing for the trial. Mr. Tynan confirmed both that Respondent had been notified that August

16, 2018, was the trial date and that Respondent was aware that if he chose to absent himself from the proceeding, the trial would proceed without him.

Counsel for the Department stated that Respondent had been officially notified to appear for trial on August 16, 2018, and a copy of the notification was admitted into evidence.

(Department Ex. 1) As Mr. Tynan represented that Respondent was aware that the trial was commencing on August 16, 2018, and as Respondent was also given an official Department notification to appear (Dep't Ex. 1), I find that Respondent had ample notice of the charges and the date of this proceeding. 38 R.C.N.Y. 15-03 (b) (2). I also find that, based on Mr. Tynan's representations, Respondent intentionally failed to appear for the proceeding. Based on the foregoing, Respondent's Departmental disciplinary hearing was conducted *in absentia*. 38 R.C.N.Y. 15-04 (d).

b. Failure to Comply with Order

Respondent is charged with failing to comply with an order to answer questions during an official Department interview held on August 9, 2018, in violation of Patrol Guide Procedure 206-13. To prevail in this matter, the Department must prove by a preponderance of the credible evidence that the order was communicated to the Respondent, that the orders were clear and unambiguous and that the Respondent failed to obey them. I find that the Department satisfied its burden of proof.

It is undisputed that Sergeant Hammerschmitt, a 10 year member of the service, assigned to the Department's Internal Affairs Group 53, was assigned to conduct an official Department interview of Respondent. The interview was done in furtherance of the Department's investigation into allegations of failure to notify a supervisor, discourtesy, force and a disputed summons. (Dep't. Ex. 2, p. 5)

On August 9, 2018, Respondent, accompanied by his attorney Mr. Tynan, after being notified, appeared at 315 Hudson Street, New York, NY. Also present for the interview were Lieutenant Lee, and Deputy Inspector John. (Dep't. Ex. 2, Tr. 16-17)

Before asking Respondent questions at this Department interview, Sergeant Hammerschmitt read Respondent the provisions in Patrol Guide Procedure 206-13. Specifically, Sergeant Hammerschmitt stated the following to Respondent:

Police Officer Stanley you're being interviewed as a subject. This is an official department investigation, it is my duty to inform you that you are an -- required to answer questions directed to you by the investigator, truthfully, and to the best of your knowledge. This interview is being conducted under provision of Patrol Guide procedure 206-13, interrogations of members of the service. I wish to advise you that you are being questioned as part of an official investigation by the Police Department. You will be asked questions specifically directed and narrowly related to the performance of your duties. You are entitled to all rights and privileges guaranteed by the laws of the State of New York and the Constitution of the United States, including the right to have legal counsel present at each and every stage of this investigation. I further wish to advise you that if you refuse to testify or to answer questions relating to the performance of your official duties, you'll be subject to departmental charges which could result in your dismissal from the police department. If you do not answer -- if you do answer neither your statements nor any information or evidence which is gained by reason of such statements can be used against you in any subsequent criminal proceedings, however these statements may be used against you in relation to subsequent departmental charges. Police Officer Stanley, do you understand the provisions of Patrol Guide procedure 206-13? (Dep't. Ex. 2, p.3)

Respondent stated that he did understand these provisions. (Dep't. Ex. 2, p. 3)

Sergeant Hammerschmitt then started to ask Respondent questions. Respondent did answer some of the questions. (Tr. 18) However, when Sergeant Hammerschmitt started to ask questions about whether Respondent got in to a verbal dispute with someone on March 22, 2016, Respondent first said he didn't recall and later stated he wasn't going to answer questions that were going to incriminate him in any way. Respondent also stated that he knew that, "nothing coming out of this building or any building of the NYPD is secret to anybody, so I'm just covering myself, so if at the end of this ... you're going to suspend me let's just do it." (Dep't.

Ex. 2 pp. 14, 17-18) After this, Sergeant Hammerschmitt specifically asked Respondent if he had a dispute with someone named [REDACTED] and Respondent stated he was not going to answer that question. Sergeant Hammerschmitt then re-read the Patrol Guide procedure 206-13 that he had previously read to Respondent before beginning the questioning. Respondent again said he understood the provisions. (Dep't. Ex. 2. Pp. 19-20) Sergeant Hammerschmitt again asked Respondent if he had a verbal dispute with [REDACTED] and Respondent again stated he did not wish to answer that question and confirmed that he was refusing to answer that question. (Dep't. Ex. 2, p. 21) Sergeant Hammerschmitt next asked Respondent if he used [REDACTED] when addressing [REDACTED] and Respondent refused to answer that question. (Dep't. Ex. 2, p. 22)

Based on the above evidence, I find that Respondent received a clear and unambiguous order to answer questions at the official Department interview held on August 9, 2018, and that Respondent refused to do so as required under Patrol Guide 206-13.

Patrol Guide Section 203-03, page 1, paragraph 2, specifically requires that members of service, "Obey lawful orders and instructions of supervising officers." It is a basic tenet of public employment that employees are generally required to "obey now, grieve later." Exceptions to this principal are very limited. For example, an employee need not obey an unlawful order, an order that is beyond the scope of a supervisor's authority, or an order that poses an imminent threat to health or safety. See Ferreri v. NY State Thruway Authority, 62 N.Y.2d 855 (1984); Reisig v. Kirby, 62 Misc.2d, 632 (Sup. Ct. Suffolk County 1968), aff'd, 31 A.D. 2d 1008 (2d Dep't 1969). None of these exceptions apply in this case. Accordingly, Respondent is found Guilty of the charged misconduct.

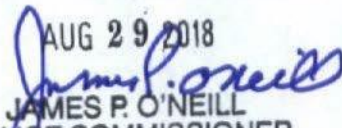
PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. See Matter of Pell v. Board of Educ., 34 N.Y.2d 222, 240 (1974). Respondent was appointed to the Department on July 7, 2001. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

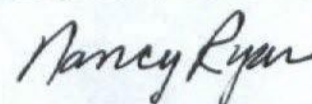
Respondent has been found Guilty of failing to comply with a lawful order pursuant to Patrol Guide 203-03, in that he failed to answer questions at an official Department interview pursuant to Patrol Guide 206-13, page 2, paragraph 12.

This tribunal has long held that failure to comply with a lawful order to answer questions at an official Department interview is grounds for termination. See Disciplinary Case No. 2016-15216 (February 10, 2016) (Twenty-four year lieutenant dismissed from the Department for failing to comply with an order on two separate dates to appear at an official Department interview). See also Disciplinary Case No. 2017-18355, (January 12, 2018) (Twenty-one-year officer, with two prior adjudications, dismissed from the Department after being found guilty of failing to comply with an order to answer questions during an official Department interview.) I therefore recommend that Respondent be DISMISSED from the Department.

APPROVED

AUG 29 2018

JAMES P. O'NEILL
POLICE COMMISSIONER

Respectfully submitted,

 km
Nancy R. Ryan
Assistant Deputy Commissioner – Trials



POLICE DEPARTMENT CITY OF NEW YORK

POLICE DEPARTMENT
CITY OF NEW YORK

From: Assistant Deputy Commissioner Trials

To: Police Commissioner

Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER WILLIAM STANLEY
TAX REGISTRY NO. 929209
DISCIPLINARY CASE NO. 2018-19382

On his last three annual evaluations Respondent once received an overall rating of 3.5 "Highly Competent/Competent" and twice received an overall rating of 4.0 "Highly Competent."

[REDACTED]

Respondent has both a disciplinary and monitoring record. In 2016, Respondent was charged with engaging in a verbal dispute, issuing an improper summons, and issuing a summons in retaliation of said verbal dispute. The disposition for that case remains pending.

On May 19, 2016, Respondent was placed on modified duty for the good of the Department. On November 3, 2016, Respondent was placed on Level I Discipline Monitoring as the result of "Negative Performance/Behavior," that monitoring remains ongoing. From November 11, 2016, to January 27, 2017, Respondent was suspended from duty.

For your consideration.

 *CRM*

Nancy R. Ryan
Assistant Deputy Commissioner – Trials